IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26/03/2003

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THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

CRL.O.P.No.7668 of 2003
and
CRL.M.P.No.2703 of 2003

P.Nedumaran .. Petitioner

-Vs-

State represented by
Inspector Police
Sempatty
Dindigul District .. Respondent

This criminal original petition is filed under S.482 of The Code of Criminal Procedure for quashing of the proceedings before the learned Additional Sessions Court, Dindigul in S.C.13/2003 for the alleged offences under Ss 124 A and 153 A of the Indian Penal Code.

For Petitioner : Mr.K.Chendru
Senior Advocate
for Mr.R.Yashod Vardhan

For Respondent : Mr.A.N.Thambidurai
Government Advocate (Crl. Side)

:ORDER
The petitioner has sought for quashing of the proceedings in S.C.No.13/2003 pending on the file of the learned Additional Sessions Court, Dindigul.
2. The learned Senior Counsel Mr.K.Chandru, appearing for the petitioner would submit that the speech of the petitioner made on 11.6.1992 is not an objectionable one and does not constitute an offence under the provisions of S.124A or 153A of I.P.C.; that it is pertinent to note that there is inordinate delay in lodging the first information report; that there is no reasonable explanation for the same; that the petitioner has been gravely prejudiced by the inordinate delay on the part of the respondent; that if the proceedings are allowed to go on, the petitioner will not be able to get the witnesses to testify to the actual text of his speech; that the petitioner has not stated anything which would bring or attempt to bring into hatred or contempt or excite or attempt to excite dissatisfaction towards the Government; that it is well settled that strong comments against the inaction of the Government will not constitute sedition, and in this view the

petitioner has not committed any offence punishable under S.124 A of IPC; that the reference to the atrocit ies against Tamils in Karnataka cannot be construed as being violative of S.153 A of I.P.C.; that a reading of the speech of the petitioner would show that no offence under S.124 A or 153 A of IPC has been made out, and hence, the proceedings has got to be quashed.

3. Contrary to the above contentions, the learned Government Advocate would submit that the petitioner/accused, who is a strong supporter and sympathiser of the LTTE, on 11.6.1992 between 20.30 and 22.50 hours at Vannampatti delivered a speech before an audience; that it has attempted to excite feelings of disaffection towards the Government, and it is seditious; that the accused attempted the Tamil youths to raise their hands against the other people of India and thus attempted to create and promote the feelings of enmity and ill will between different racial and language group in India and thus excited disaffection towards the Government established by law; that it is clear from the said speech that the petitioner/accused has committed an offence punishable not only under S.124(A) of IPC, but also under S.153(A) of IPC; that the said speech made by the petitioner make out a case; that there are available materials to prove the offence against the petitioner; that in view of the above, the proceedings pending before the lower Court has got to proceeded with, and hence, this petition has to be dismissed.

4. After careful consideration of the rival submissions, the Court is of the firm view that the relief sought for by the petitioner has got to be refused.

5. The prosecution case is that on 11.6.1992, the petitioner has delivered a speech creating ill will and promoting enmity among different retail and linguistic groups of Indian people and thereby committed the offences punishable under Ss 124(A) and 153(A) of the Indian Penal Code. A perusal of the First Information Report and the charge sheet laid by the respondent police would make it abundantly clear that the allegations mentioned therein, if proved, would naturally attract the provisions of Ss 124(A) and 153(A) of I.P.C. The available materials would go to show that the ingredients of the above stated provision of law are clearly disclosed therein, and there is no material to show that the first information is mala fide, frivolous or vexatious. When an information is lodged at the police station and an offence is registered, then the mala fides of the informant would be of secondary importance. It is the material collected during investigation and the evidence led in the trial Court which decides the fate of the accused person.

6. The contention of the petitioner's side that there has been inordinate delay in lodging the first information, and because of the same, the petitioner has been prejudiced cannot be accepted, in view of the nature of the offences alleged against him. The question whether the charges against the petitioner are mala fide or not does not arise at this stage. The Court is of the view that the so-called allegations made against the petitioner warrant a full trial, and then only, the entire truth would come to light. If the petitioner has any grievance over the charges levelled against him, he can very well put forth the same by way of defence during trial. In view of the available materials, the Court does not find any merit in all or any one of the contentions put forth by the petitioner's side, and the Court below has to be necessarily allowed to proceed further with the case. Therefore, the request of the petitioner for quashing the said proceedings is liable to be

rejected.
7. In the result, this criminal original petition is dismissed. Consequently, connected CRL.M.P. is also dismissed.

Index: yes
Internet: yes

To:

1) The Inspector Police
Sempatty
Dindigul District
2) The Public Prosecutor
High Court, Madras.

nsv/

((SCO LYRIX 6.1
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